



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201641026**  
Release Date: 10/7/2016  
UIL Code: 501.04-00  
501.33-00

Date: July 14, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear \_\_\_\_\_ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date: May 28, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

C = Website Phrase  
D = Program Name  
F = Organization Name  
G = Website Phrase  
H = Website Phrase  
J = Website Phrase  
K = Website Phrase  
L = Website Phrase  
M = Website Phrase  
N = Website Phrase  
P = Website Phrase  
Q = Website Phrase  
R = Website Phrase  
S = Website Phrase  
T = Website Phrase  
V = Organization Name  
W = City  
X = Date  
Y = Date  
Z = State

**UIL:**

501.04-00  
501.33-00

Dear ,

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify

for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

### Issues

- Do you meet the organizational test under section 501(c)(3) of the Code? No, for the reasons stated below.
- Do you meet the operational test under section 501(c)(3) of the Code? No, for the reasons stated below.

### Facts

You are currently exempt under section 501(c)(4) of the Code. You submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on X.

You attested that you were incorporated on Y in Z. You also attested that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of section 501(c)(3), that your organizing document does not expressly empower you to engage, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under section 501(c)(3), and that your organizing document contains the provisions required by section 508(e) or that your organizing document does not need to include the provisions required by section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of section 508(e).

You attested that you are organized and operated exclusively to further charitable purposes and that you have not conducted and will not conduct prohibited activities under section 501(c)(3).

Specifically, you attested that you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

Detailed information was requested from you supplemental to the above attestations. The additional information showed that you were indeed incorporated on Y in Z. Your organizing document was amended on X to limit your purpose to exclusively charitable in nature. Your organizing document did not contain language dedicating your assets to an exempt purpose.

You are made up of a team of volunteer board members who coordinate approximately 60 events each year as well as teams for sports leagues. Your events connect members to opportunities and resources that increase their level of engagement and contribution to the W community. The events are held at various locations throughout

the greater W area with the heaviest concentration being in and around downtown. Events are open to the public but your target demographic is individuals age 21-39. Most participants fall into this age range. You do not charge a fee for membership. However, participants pay a fee when activities require a fee from a partnering organization or business.

You hold 11 meetings of the board of directors each year. The meetings provide hands on experience to directors in participating on a non-profit board. You explain this will serve the community through your directors' future involvement on other non-profit boards. Your board meetings and Steering Committee meetings take up a substantial amount of time and support your activities.

Your website states that you are a young professional organization that, "T around W that are S." It states, "R young W with Q." The website also states, "Whether you're looking to P W better, W N is a M and has L!"

You hold free monthly social events or gatherings for young professionals to meet and network at local establishments where a local non-profit organization is highlighted and has the opportunity to inform your members of their work and provide your members with information on how they can get more involved. Per your website, "The events K while providing a J in a way that is H." Your website listed many social events including outings at a dance studio, karaoke, and several restaurants, hotels, and brewing companies. The events typically spotlighted a local non-profit organization as well as a local business. You also conduct an annual charitable fundraiser gala that does require a fee to attend and benefits a different local charity each year. You stated that approximately 20% of your time and resources are spent on social events.

You host professional development events that are generally free educational seminars, workshops, or other gatherings aimed at developing identified professional skill sets and connecting members to resources that will help them grow and succeed professionally. Your website states, "G is an important part of V." You encourage members to become more involved in the community through serving non-profit organizations as volunteer board members or in other leadership capacities. Your website shows that topics at your past professional development events include Good Design and SEO, Optics and W's Future, Leadership Development Program, Bringing Joy to the Workplace, and Find Your Purpose. You also conduct an annual professional development event where local entrepreneurs are invited to showcase their businesses, share their experiences, and help foster a sense of connectedness and support with the entrepreneurial community of W. The event involves a strong focus on student learning and real world exposure to entrepreneurship. Select events require a fee to attend. You indicated that approximately 20% of your time and resources are dedicated to professional development activities.

You hold community development events which are generally free gatherings at local destinations with community value, such as non-profit organizations, historic landmarks, or other cultural and/or artistic assets such as museums, live theatre, and musical performances. These events aim to educate and generate interest in work being done in the community and the historic resources that make the city great. Some of the events benefit a charitable organization with fundraising through voluntary donations. Select events require a fee to attend. You indicated that approximately 15% of your time and resources are dedicated to these activities.

You have volunteering events that provide opportunities for individuals to give back to the community by participating in a team of volunteers to implement events organized by other non-profit organizations throughout the year. These events are free to participate in and they often include free admission to the event so volunteers are able to enjoy the event when they are done volunteering. Your website provided information about a volunteer opportunity with an auction benefiting a women's foundation and listed past volunteer events

that included a music festival, a F event, walks, and galas. You indicated that approximately 15% of your time and resources are dedicated to providing volunteering events.

You hold outdoor recreation events that consist of gatherings at local destinations that highlight the community's natural resources and recreational opportunities. The events promote an active lifestyle as well as education and appreciation the region's unique geographical features and ecosystems. These events are aimed at exposing members to new and different aspects of the W area that will increase their quality of life and knowledge of the region. Some of the events require a fee to participate. Your website contains information on various past and upcoming outdoor recreation events including rock climbing, D, a kayak adventure, a wilderness survival class, an outing at a fun center, ice skating, and a guided hike. You indicated that you spend approximately 10% of your time and resources conducting outdoor recreation events.

In addition to the outdoor recreation events you also have sports events to give your members the opportunity to participate in various sports leagues throughout the city. Your website states, "C with V Sports." Members are also able to connect while attending local professional sports competitions as spectators. The sports events listed on your website included a March Madness Bracket Challenge, a Nerf battle, a volleyball league, a dart league, a golf night event, and a gathering at a reserved party deck at a hockey game for members to socialize, network, and watch the game. You indicate that these events promote a healthy, active lifestyle, and allow your members to connect over their love of sports. There are usually fees charged to participate in team sports and to attend the spectator sports. You indicated that you spend approximately 10% of your time and resources on these events.

You have a perks program that is designed to support the local economy by promoting locally owned businesses among your membership. The program offers special incentives to your members to frequent participating businesses. Through this program, you hosted a restaurant week where participating restaurants provided a special menu to entice people to enjoy the local restaurant scene. While there was no fee for businesses to participate in restaurant week, that will likely change in the future so that you can use funds received to promote the event. There is no charge to members to participate in the perks program beyond the cost of the product or service being offered by participating businesses. You stated that approximately 15% of your time and resources are dedicated to providing a perks program to members.

#### **Law**

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) states than an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, if upon dissolution, such assets would by reason of a provision in the organization's articles of organization or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Rev. Rul. 69-175, 1969-1 C.B. 149, provides that a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children services a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 70-4, 1970-1 C.B. 126, provides that an organization whose activities consisted primarily of the promotion and regulation of a sport for amateurs is not exempt as a section 501(c)(3) educational organization because the promotion and regulation of a sport for amateurs as described neither improve nor develop the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 77-365, 1977-2 C.B. 192, states that an organization that conducts clinics, workshops, lessons, and seminars at municipal parks and recreational areas to instruct and educate individuals in a particular sport is operated exclusively for educational purposes and qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 77-377, 1977-2 C.B. 192, describes an organization that arranges and conducts winter-time ocean cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities. The organization did not qualify for exemption under section 501(c)(3) of the Code because it was not operated exclusively for exempt purposes under section 501(c)(3) of the Code.

Rev. Rul. 77-430, 1977-2 C.B. 194, describes an organization that conducts weekend religious retreats, open to individuals of diverse Christian denominations, at a rural lakeshore site at which the participants may enjoy the recreational facilities in their limited amount of free time and that charges no fees qualifies for exemption under section 501(c)(3) of the Code as an organization operated exclusively for religious purposes.

In Spanish American Cultural Association of Bergenfield v. Commissioner, T.C. Memo. 1994-510, 1994 WL555882, the U.S. Tax Court held that the Spanish American Cultural Association of Bergenfield did not qualify as an organization described in Code section 501(c)(3) because its charitable activities were insubstantial compared to its social activities.

In The Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), an organization operating a religious retreat facility did not qualify for exemption under IRC 501(c)(3) because it failed to show that the retreat facility was operated exclusively for religious purposes. Although the organization's mountain lodge offered guests religious, recreational, and social activities; however, none were regularly scheduled or required. The court concluded that the organization had not met its burden of proof to show that the lodge was operated primarily for an exempt religious purpose and that the recreational and social activities at the lodge were only incidental to a religious purpose.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of any other exempt purposes.

### **Application of law**

You are not described under Section 501(c)(3) of the Code or Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you do not meet the organizational or operational tests. If an organization fails either the organizational or operational test, it cannot qualify as an exempt organization under Section 501(c)(3) of the Code.

### Organizational Test

Your organizational document does not dedicate your assets to an exempt purpose as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4). As a result, you do not satisfy the organizational test requirement in Treas. Reg. Section 1.501(c)(3)-1(a)(1) to be recognized as exempt under Section 501(c)(3) of the Code.

### Operational Test

Your website states that you are a young professional organization that, “T around W that are S.” Although some of your activities are charitable and educational in nature, many of your activities serve substantial social purposes. Further, your perks program provides direct benefits to members and participating businesses. Your nonexempt activities are more than insubstantial in nature. For this reason you are not operating exclusively for exempt purposes (Treas. Reg. Section 1.501(c)(3)-1(c)(1)). As a result you do not satisfy the operational test requirement to be recognized as exempt under section 501(c)(3) of the Code, and you are not as described in Section 501(c)(3) of the Code.

Your sports and outdoor recreation events are not similar to those in Rev. Rul. 77-365. Your events are not geared toward educating individuals in a particular sport. While there might be a minor educational aspect to some events, they are similar to the organization in Rev. Rul. 70-4 in that they geared toward promoting the health of the public. Your sports and outdoor recreation events are mainly social and recreational in nature. Your website states, “C with V Sports.” Your sports events include gatherings at sporting events that allow members to socialize, network, and watch games.

You are distinguished from the organization described in Revenue Ruling 77-430 because you are not operated exclusively exempt purposes. A substantial portion of your activities consists of providing networking, social, and recreational activities for your members. Your social events are similar to those in Rev. Rul. 77-377 in that they are social in nature, not charitable or educational. While you may highlight a non-profit organization at the events, that is not the purpose of the event. Your website states, “The events K while J in a way that is H.” The activities of networking, socializing, and developing friendships do not fulfill 501(c)(3) purposes. Additionally, at many of the events you spotlight a local business which results in private benefit to the business and does not fulfill a 501(c)(3) purpose. Your annual professional development event also results in private benefit to the businesses that are showcased.

You are similar to the organization in Rev. Rul. 69-175 in that you have a perks program that results in private benefit rather than public benefit. You promote locally owned businesses among your membership. The program offers special incentives to your members to frequent participating businesses. You are therefore not operated exclusively for one or more exempt purposes because your perks program results in private benefit to your members as well as the businesses rather than public benefit. (Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii))

Like the organizations in The Schoger Foundation v. Commissioner and Spanish American Cultural Association

of Bergenfield v. Commissioner, you have failed to show that you are operated exclusively for exempt purposes. You conduct various activities that fulfill social and recreational purposes such as social activities, networking activities, outdoor recreational activities, and participate in sporting events. You are not operated exclusively for exempt purposes because you do not primarily engage in activities which accomplish one or more exempt purposes and more than an insubstantial part of your activities is not in furtherance of an exempt purpose. (Treas. Reg. Section 1.501(c)(3)-1(c)(1))

The Supreme Court held in Better Business Bureau of Washington, D.C. v. United States that a single nonexempt purpose, if substantial in nature, would preclude an organization from qualifying under section 501(c)(3) no matter the number or importance of truly exempt purposes. Despite some of the charitable and educational activities that you conduct, you have substantial social and recreational activities for your members and you provide members with business perks, all of which serve a non-exempt purpose and preclude you from exemption under Section 501(c)(3) of the Code.

### **Conclusion**

Based on the above facts and analysis, you do not qualify for exemption under section 501(c)(3) of the Code. You do not satisfy the organizational test requirement to be recognized as exempt under section 501(c)(3) of the Code and you are not operated exclusively for a 501(c)(3) purpose. Your organizing document does not dedicate your assets to an exempt purpose and a more than insubstantial portion of your activities do not serve exempt purposes. Therefore, you do not qualify for exemption under section 501(c)(3) of the Code.

You remain exempt under section 501(c)(4) of the Code.

### **If you don't agree**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

#### **For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

**Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

**If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892